

# Exhibit A

Defendants' Exhibit to Motion to Reconsider

(Deposition of Kimberlee Centera, May 14, 2021,  
pp. 85, 183-184)

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OKLAHOMA  
3  
4           UNITED STATES OF AMERICA,  
5                   Plaintiff,  
6           and  
7           OSAGE MINERALS COUNCIL,  
8                   Intervenor-Plaintiff,  
9           vs.                                   Case No. 14-CV-704-GFK-JFG  
10           OSAGE WIND, LLC;  
11           ENEL KANSAS, LLC; and  
12           ENEL GREEN POWER  
13           NORTH AMERICA, INC.,  
14                   Defendants.

15           VIDEO ZOOM DEPOSITION OF KIMBERLEE CENTERA  
16           TAKEN ON BEHALF OF THE INTERVENOR-PLAINTIFF  
17           ON MAY 14, 2021, BEGINNING AT 10:49 A.M.  
18           REPORTER PRESENT IN YUKON, OKLAHOMA

19           APPEARANCES:

20           On behalf of the PLAINTIFF

21           Stuart Ashworth  
22           Cathryn D. McClanahan  
23           UNITED STATES ATTORNEY'S OFFICE  
24           110 West 7th Street, Suite 300  
25           Tulsa, Oklahoma 74119  
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              THE VIDEOGRAPHER:   Jake Underwood

              REPORTED BY:   Janna Pirtle, CSR, RPR

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1 Q So I am now going to introduce what I  
2 believe is going to be Exhibit 38, and let me  
3 just pull that up here really quick, so we are  
4 going to look at this. All right. Okay.  
5 Sorry, my apologies.

6 Okay. So this is -- Exhibit 38 is Bates  
7 stamped OSAGE WIND PRIV-000243. It is a letter  
8 dated October 9th, 2014, to Mr. Francesco  
9 Venturini, president of EGPNA, and it looks like  
10 it's from the superintendent of the United  
11 States BIA, the Department of Interior, Bureau  
12 of Indian affairs.

13 Ms. Centera, are you familiar with this  
14 document? Have you seen this document before?

15 A I have, yes.

16 Q I'll read here. It states, "You are to  
17 refrain from any further excavation of minerals  
18 until such time that you have obtained a sandy  
19 soil permit through the Osage agency."

20 In your expert opinion, would this  
21 constitute a situation where defendants were,  
22 quote, unquote, clearly apprised that a lease  
23 would be necessary prior to or continuing to  
24 excavate minerals?

25 A Well, I think what I would say is you

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1 Q (By Mr. Ashworth) Give me one second.  
2 My computer's...

3 (Discussion off the record)

4 Q (By Mr. Ashworth) Ma'am, have you seen  
5 this letter before?

6 A Can I see the top part of the letter?  
7 Okay. Can you scroll down? I think I have seen  
8 this before.

9 Q You believe you have?

10 A I think I've seen this. Trying to  
11 think. Could you keep scrolling, please? Yes,  
12 I have seen this letter, yes.

13 Q Okay. If we go back to the first page,  
14 I'm going to look at the second paragraph right  
15 there. The last sentence, in particular, it  
16 says -- this is a letter from Andrew Yates, at  
17 the time, I believe, the chairman of OMC to  
18 David Boyce. That sentence says, "Activities  
19 occurring within or affecting the Osage mineral  
20 estate may be subject to a range of federal  
21 regulations" -- I'm sorry -- "regulatory  
22 requirements, including the need to secure a  
23 federal permit or lease to undertake such  
24 activities, pursuant to 25 CFR Sections 411 and  
25 414."

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1           You have read that sentence before;  
2       correct?

3           A     Yes.

4           Q     Okay. And before I get any further, I  
5       will mark this as Exhibit Number 41. I believe  
6       that's the correct number.

7           Ma'am, did you read that sentence before  
8       you wrote your expert report, wherein you state  
9       that there was no evidence to conclude that  
10      project would have needed a minerals lease?

11          A     No, I did not.

12          Q     So you read this sentence after your  
13      expert report; correct?

14          A     Right. I --

15          Q     Okay. And this letter to David Boyce,  
16      who's -- my understanding is now or was the CEO  
17      of Osage Wind, LLC. And I'd also represent that  
18      it appears that when it references 411, 414, if  
19      you were to go to those sections, they don't  
20      exist. By looking at the titles, it would have  
21      indicated 211 and 214.

22                Is it your understanding that this would  
23      at least provide some evidence that -- for Osage  
24      Wind to have concluded that a lease would have  
25      been needed, pursuant to either the -- or

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